

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PRESTON TUCKER BAUMANN,

Defendant.

CR 21–56–BLG–DLC

ORDER

Before the Court is United States Magistrate Judge Timothy J. Cavan’s Findings & Recommendations Regarding Revocation of Supervised Release. (Doc. 75.) Because neither party objected, they are not entitled to *de novo* review.¹ 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Cavan found, based on Mr. Baumann’s admissions at the hearing, that he violated five conditions of his supervised release: the mandatory condition that

¹ Both parties filed notices stating that they have no objections to the Findings and Recommendation. (Docs. 77, 78.)

he refrain from the unlawful use of controlled substances (Mand. Cond. 3); the special condition that he abstain from the consumption of alcohol (Spec. Cond. 5); the special condition that he participate in and successfully complete a program of substance abuse treatment as approved by the probation officer (Spec. Cond. 7); the standard condition that he work full time (at least 30 hours per week) at a lawful type of employment and report any changes in employment to the probation officer (Stand. Cond. 7); and the special condition that he participate in substance abuse testing (Spec. Cond. 6). (Doc. 75 at 5.)

Judge Cavan recommends that this Court revoke Mr. Baumann's supervised release and sentence him to a custodial sentence of thirty-four (34) days imprisonment followed by thirty-four (34) months of supervised release. (*Id.* at 1; Doc. 75-1 at 3–4.) The Court finds no clear error in Judge Cavan's Findings and Recommendations and adopts them in full.

Accordingly, IT IS ORDERED that Judge Cavan's Findings and Recommendations (Doc. 75) are ADOPTED in full.

Mr. Baumann shall be sentenced in conformity with Judge Cavan's recommendation in the judgment filed concurrently with this Order.

DATED this 24th day of May, 2024.



Dana L. Christensen, District Judge
United States District Court